IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 12TH FEBRUARY 2007 / 23RD MAGHA 1928

Crl.Rev.Pet.No.356 of 2007(D)

(AGAINST THE JUDGMENT DATED 27.10.2006 IN CRL.A.NO.499/2003 OF THE COURT OF THE ADDITIONAL SESSIONS JUDGE, FAST TRACK COURT-I, PALAKKAD & JUDGMENT DATED 11.11.2003 IN S.T. NO.1485 OF 2000 OF THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE, MANNARKKAD).

REVISION PETITIONER: APPELLANT/ACCUSED:-

REJI, S/O. BABY,
AGED 26, MARAKKASSERI HOUSE, UPPUKULAM,
EDATHANATTUKARA, MANNARKKAD TALUK.

BY ADV. SRI.S.RAJKUMAR

RESPONDENTS: RESPONDENT/COMPLAINANT:-

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1. ABUBACKER, S/O. KUNJAYAMMU,
AGED 60, PADUKUNDIL HOUSE, UPPUKULAM,
EDATHANATTUKARA, MANNARKKAD TALUK.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

R2 BY PUBLIC PROSECUTOR SRI.C.M.KAMMAPPU.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 12/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:-

K.R.Udayabhanu,J.

Crl.R.P.No.356 of 2007

Dated, this the 12th day of February, 2007

ORDER

The revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for three months and to pay a compensation of Rs.85,000/- under Section 357 of the Code of Criminal Procedure and the said amount, if realised, to be given to the complainant under Section 357(3) of the Code of Criminal Procedure.

2. It is the case of the petitioner that the signed blank cheque kept by him to pay the instalment for the vehicle purchased by him was lost and the same came into the possession of the complainant and that he has misused the same. According to him, the version of P.W.1, the complainant, is false. It is contended that it is evident that what he has stated in the cross examination that he knew the accused since 1960 is an utter lie. It is stated that the accused is aged only 22 years at the

relevant time. The Courts below have held that in the circumstances what exactly P.W.1 meant was that he is conversant with the family of the accused since 1960. The above conclusion is fortified from the statement of P.W.1 that he had asked to bring his father along with him when the accused requested for the loan. The above statement of P.W.1 that he knew the accused from 1960 onwards has no direct connection with the alleged borrowal and issuance of a cheque which was subsequently dishonoured for want of funds. The accused has not adduced any evidence. In the circumstances, I find that the findings of the Court below are liable to be upheld. All the same, considering the plea of the counsel for the revision petitioner, the sentence of imprisonment is modified to imprisonment till the rising of the Court and to pay a compensation of Rs.85,000/- to the complainant vide Section 357(3) of the Code of Criminal Procedure and in default, to undergo simple imprisonment for three months. The revision petitioner/accused is granted four months time from today onwards to pay the amount of compensation.

In the result, the revision petition is disposed of with the above directions. The revision petitioner/accused shall appear before the Judicial First Class Magistrate, Mannarkkad on 12.6.2007 to receive the sentence.

K.R.Udayabhanu
Judge

vku/-